



Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

OCT 13 1983

MEMORANDUM TO: Craig Fuller
Assistant to the President for
Cabinet Affairs

FROM: Edward C. Schmults
Deputy Attorney General

RE: "Drug Tsar" Legislation: A Proposed
Administration Response

Background: For more than a year, there have been calls in the Congress for creation of a "drug tsar" to oversee and coordinate all federal drug enforcement efforts. We have consistently resisted these proposals, first on the Floor of the Senate last year where a Biden "drug tsar" amendment to the Violent Crime and Drug Enforcement Improvements Act was accepted by a 2-1 margin despite Chairman Thurmond's efforts on our behalf. During the "lame-duck" session of the 97th Congress, the "drug tsar" proposal was attached to the "mini-crime bill." As you will recall, the Biden bill would have created a "super Cabinet-level" drug tsar with vague and sweeping powers to "direct" departments and agencies to carry out the policies he establishes including the power to reach down into departments and agencies and reassign enforcement personnel. The President disapproved it primarily because of this "drug tsar" provision.

Despite our continuing opposition to the "drug tsar" concept, Senator Biden has succeeded in having his new "drug tsar" bill (S. 1787) reported by the Senate Judiciary Committee by a vote of 12 to 5 (3 of the 5 votes against were proxies voted by Chairman Thurmond; in at least one case the proxy was from a Senator who favors the tsar concept). The Biden bill is substantially identical to the "tsar" provision of the mini-crime bill pocket vetoed in January.

On the House side, Congressman Hughes has had his version of a "drug tsar" proposal (H.R. 3664) reported by the House Judiciary Committee. The Hughes' bill builds upon an existing structure (the White House Drug Abuse Policy Office) rather than creating an entirely new structure.

- 2 -

Senator Biden will, as part of his agreement with Chairman Thurmond, be able to bring his bill to the Senate Floor as a separate bill upon completion of Senate consideration of the President's crime package, possibly within a few weeks. Congressman Hughes can be expected to try to get his bill approved by the House before the Senate acts on the Biden bill.

Prognosis: House and Senate Floor action on "drug tsar" legislation is imminent and the result will almost certainly be overwhelming approval by both bodies. The simplistic and superficial appeal of the "drug tsar" concept appears irresistible. Even if the President was to veto a "drug tsar" proposal we must recognize that the vote we anticipate on initial passage would be so strong as to suggest concern about a veto override. The Administration would suffer from the public's confusion of vetoing a "crime" bill.

Moreover, the Democrat strategy may be to secure Congressional approval of a bail, sentencing, forfeiture and "drug tsar" package leaving the balance of the President's anti-crime package to gather dust in the House Judiciary Committee.

A Revised Biden Bill. Despite the shortcomings of the Biden "drug tsar" bill, there is reason to believe that Biden may be willing to make a number of changes to accommodate our concerns. In this regard, Biden has held out the intelligence community as a model of a coordinated multidepartmental effort. We believe his bill can be modified, therefore, to make it more consistent with the organization of the intelligence community while at the same time bringing it more into line with our current cabinet system.

Recommendation: We recommend that the Department of Justice be authorized to approach Senators Thurmond and Biden. We believe that a version patterned after the Director of Central Intelligence model can be structured in such a way as to provide a single witness to appear before Congressional committees to testify on anti-drug efforts and accommodate certain other concerns without unnecessarily infringing on the important operational programs of the several departments. In summary, an alternative approach could be to establish a Drug Policy and Operations Board chaired by the Attorney General and made up of members of the Cabinet Council on Legal Policy. Such a board would set drug policy and oversee drug enforcement operations through a participatory process that respects the powers of Cabinet officers to supervise the internal affairs of their departments.